



Comptroller General
of the United States

Washington, D.C. 20548

Ms. Sklarew

Decision

Matter of: Arco Management of Washington, D.C.

File: B-248653.3

Date: June 11, 1993

Richard J. Oparil, Esq., Schwalb, Donnenfeld, Bray & Silbert, for the protester.
Sharon Matthews Swain, Department of Housing and Urban Development, for the agency.
Christina Sklarew, Esq., Andrew T. Pogany, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where protester previously challenged award to lower priced offeror on the basis that the agency's technical evaluation was not adequately supported by the record and the General Accounting Office sustained the protest, recommending that the agency re-evaluate proposals, agency's affirmation of its initial award decision is unobjectionable where the agency has fully documented its technical reevaluation and where the record shows that it was reasonable.

DECISION

Arco Management of Washington, D.C., Inc. protests the award decision by the Department of Housing and Urban Development (HUD) under request for proposals (RFP) No. 13-91-051 that followed HUD's reevaluation of proposals under that solicitation. We deny the protest.

HUD issued the solicitation on December 6, 1991, requesting offers for property management services for certain multi-family properties located in Virginia. The RFP contemplated the award of a firm, fixed-price, indefinite quantity contract for an initial 2-year period, with two 1-year option periods. Offerors were advised to submit separate technical/management and cost proposals, and were cautioned that price would be considered secondary to the technical and management factors. The RFP stated that award would be made to the responsible offeror whose offer conforming to the solicitation would be most advantageous to the government, cost or price and other factors as specified in the solicitation considered. The RFP provided a detailed

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point system for scoring the technical and management factors in the proposals, listing the maximum attainable points for each of 7 factors, for a maximum total score of 100 points.

Arco and Intown were among thirteen firms that submitted offers. A Source Evaluation Board (SEB) reviewed and evaluated the offers, and determined that the six highest-scoring proposals should be retained in the competitive range. The proposals submitted by Arco and Intown scored highest and second-highest, respectively. Written discussion questions were submitted to the competitive range firms, who then submitted revisions which were reviewed and evaluated by the SEB. Intown's technical score, which had initially been lower than Arco's, was increased as a result of the revisions it submitted, and now matched Arco's score, which, despite Arco's responses to the discussion questions, was not increased. Intown submitted a final price that was lower than Arco's. The SEB recommended that the contract be awarded to Intown, and the source selection official (SSO) concurred.

On May 8, 1992, Arco protested that its proposal had been evaluated in an arbitrary and capricious manner, rendering HUD's award decision improper; more specifically, the protester asserted that the technical evaluation (finding Arco's and Intown's technical proposals as essentially equal) and subsequent award decision were not adequately documented, as required by the Federal Acquisition Regulation (FAR).

In our decision, Arco Management of Wash., D.C., Inc., B-248653, Sept. 11, 1992, 92-2 CPD ¶ 173, we agreed that at least one part of the technical evaluation, in which proposal revisions were scored, was inadequately supported by the record and was therefore unreasonable. The report that HUD had submitted to our Office in response to this protest included little documentation of the agency's technical evaluation process, beyond evaluation sheets that contained only numerical scores; the report contained no narrative explanations of those scores. We pointed out that the FAR requires agencies to document their selection decisions so as to show the relative differences between proposals, their weaknesses and risks, and the basis and reasons for the selection decision. FAR §§ 15.608 and 15.612(d)(2). Where there is inadequate supporting rationale in the record for the source selection decision, we cannot conclude that an agency has a reasonable basis for its decision. American President Lines, Ltd., B-236834.3, July 20, 1990, 90-2 CPD ¶ 53.

Under the terms of the RFP, the source selection decision had to be based upon the relative technical scores of the competing offers; since we considered the determination of those scores unsupported by the record, we could find no reasonable basis for the award decision and therefore sustained the protest. We recommended that HUD reevaluate the final proposals that had been submitted, consistent with the technical factors and related weights listed in Section M of the RFP. Following this evaluation, HUD was to determine which offer was most advantageous to the government as provided in the RFP.

HUD has now reevaluated the proposals, again concluding that Intown's offer was most advantageous to the government. This second protest followed, with Arco again asserting that HUD has provided no rationale for its decision.

The score sheets from the evaluation of Arco's initial technical proposal show that Arco received the highest possible score for three of the evaluation factors (relating to experience in implementing HUD regulations and procedures, experience in managing similar properties, and capability of the firm's key personnel). The scores for the remaining factors show that Arco lost points under evaluation factor No. 3 (experience in managing major repair and rehabilitation programs), under factor No. 5 (capacity to handle subcontracting responsibility); under factor 6 (experience in facilitating resident management and ownership); and under factor No. 7 (demonstration that the offeror understands the conditions of the project and providing a management plan to facilitate resident involvement in management and operations).

The discussion questions that were posed to Arco after the initial evaluation addressed Arco's price, which was considered high, and identified the subfactors under the five evaluation factors (discussed above) for which the firm had not received the maximum allowable score. The discussion questions generally requested more specific detail or asked for further elaboration. Arco submitted a revised proposal that responded to the agency's questions, in some instances providing documents illustrating its experience under other contracts. As stated above, when the SEB scored the revised proposals, Arco's proposal received no additional points.

In response to our decision, the SEB again evaluated the proposals. Arco's score again remained the same; Intown's score was increased by 2 points, so that now a difference of 2 points separates the protester's and awardee's scores. The SEB and SSO concluded that the two proposals were virtually equal technically, and found Intown's proposal to be more advantageous in light of its lower price.

Our concern with the initial evaluation was the absence of any explanation for HUD's not increasing Arco's technical score in light of what appeared to be appropriate responses to the discussion questions posed to Arco. HUD has now provided that explanation in the documents resulting from the reevaluation. These documents show that the evaluators found Arco's responses to be inadequate or not warranting an increase in points and we find no basis for concluding that the evaluators acted unreasonably.

For example, where the agency had requested that Arco further elaborate under factor No. 6, regarding its past experience facilitating resident management and ownership, Arco provided information regarding contracts it had performed (or was in the process of performing) in which rental properties were converted into tenant-owned co-ops. However, the evaluation comments show that the evaluators were seeking additional details about the residents' involvement in the conversion, while Arco had simply provided a longer list of contracts.

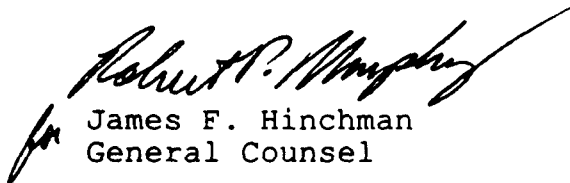
Similarly, the discussion questions had identified evaluation factor 7 (concerning the offeror's understanding of the particular conditions of the project and its plan for facilitating resident involvement in management and operations), worth a maximum of 20 points, as the weakest area of Arco's proposal, and advised Arco that "all elements can be improved upon." The first subfactor, which was worth 3 points, involved whether the firm had ever visited the project or spoken to the residents. Arco's initial proposal indicated that the firm had visited the project, and Arco received 2.5 points. In response to HUD's request for further elaboration, Arco submitted an inspection report and survey that one of its employees had prepared after visiting the project. The comments on the reevaluation score sheets show that Arco's score was not increased for this subfactor because the report showed that the employee had not spoken to anyone during the visit and therefore was not entitled to the total points available.

The second subfactor concerned the extent to which the management plan required resident involvement in the day to day management of the project, and was worth 7 points. The SEB awarded Arco 6 points for this factor. Arco's revised proposal included a sample management plan which it stated would be adapted to meet the needs of the particular project assigned under the contract. No additional points were given during the evaluation because, the score sheet comments show, the SEB did not consider Arco's management plan to be sufficiently detailed to merit the full 7 points.

For the third subfactor, worth 10 points, offerors were evaluated on the basis of whether they had hired any project

residents under similar contracts and whether they showed that they would make a conscious effort to hire and train residents under this contract. Arco received a total of 5 points for this subfactor. In its revised proposal, Arco submitted a certificate of training, issued by HUD, for Arco's senior vice president to establish Arco's capability in this area. No additional points were given for this subfactor. The reevaluation commentary shows that the 5 points were given because Arco's proposal stated that the firm would make every effort to hire tenants under the contract, but no additional points were given because Arco did not state in its proposal that it had ever hired any tenants in the past. This is consistent with the guidelines that were provided to the SEB for scoring proposals, which establish that 5 points should be awarded for this subfactor if the offeror has hired residents in the past, and 5 points should be awarded if the proposal demonstrates a conscious effort to hire and train residents.

In short, HUD has now provided the documentation to support its evaluation in all the areas of concern identified in our prior decision; this documentation reflects a reasonable approach to the scoring and evaluation of proposals. Accordingly, the protest is denied.


for James F. Hinchman
General Counsel